

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number	10/662,940	Confirmation No.:	2033
Appellant	Kimball C. CHEN et al.		
Filed	September 16, 2003		
Title	ELECTRONIC MESSAGE DELIVERY SYSTEM UTILIZABLE IN THE MONITORING AND CONTROL OF REMOTE EQUIPMENT AND METHOD OF SAME		
TC/Art Unit	3628		
Examiner:	Borissov, Igor N.		
Docket No.	64717.000002		
Customer No.	21967		

MAIL STOP: APPEAL BRIEF--PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

In response to the Examiner's Answer mailed April 29, 2009, maintaining the rejection asserted in the Non-Final Office Action ("Office Action") of pending claims 1-3, 7, 8, 13, 15, 17, 19, 152, 180-182, 186, 187, 192, 194, 196, 198, and 331, Appellants respectfully request that the Board of Patent Appeals and Interferences ("the Board") reconsider and reverse the rejections of record.

I. Status Of Claims

Claims 1-432 are pending in this application. Claims 1-3, 7, 8, 13, 15, 17, 19, 152, 180-182, 186, 187, 192, 194, 196, 198, and 331 stand rejected. Claims 4-6, 9-12, 14, 16, 18, 20-151, 153-179, 183-185, 188-191, 193, 195, 197, 199-330, and 332-432 have been withdrawn from consideration. The rejection of claims 1-3, 7, 8, 13, 15, 17, 19, 152, 180-182, 186, 187, 192, 194, 196, 198, and 331 is appealed.

II. Grounds Of Rejection To Be Reviewed On Appeal

The following ground of rejection is to be reviewed on appeal:

The rejections of claims 1-3, 7, 8, 13, 15, 17, 19, 152, 180-182, 186, 187, 192, 194, 196, 198, and 331 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 5,544,036 to Brown, Jr. *et al.* ("Brown") in view of U.S. Patent No. 6,178,362 to Woolard *et al.* ("Woolard").

III. Arguments

Appellants respectfully offer the following in reply to the new arguments, or arguments presented in a different manner for the first time, in the Examiner's Answer to Appellants' Brief.

(i) The Office Action alleges that claim 1 would have been obvious in view of Brown and Woolard. Appellants respectfully disagree. In particular, Appellants submit that the combination of Brown and Woolard fails to disclose, or even suggest, a method for controlling one or more of resource-consumption and resource-production associated with a plurality of remote devices, comprising: "*automatically* generating at least one informational message at a central server *responsive* to one or more of resource-consumption by, resource-production by, operating characteristics of, and operational state of at least one device of the plurality of remote devices," as recited in claim 1. (emphasis added). In contrast, Brown merely discloses that the "utility command center computer 24 provides signals to transmitter 20, which, in turn, provides appropriate paging messages to the various controllers 14." *See, e.g.*, Brown at column 4, lines 7-10. At best, Brown discloses a one way communication channel for sending paging signals from transmitter 20 to various controllers 14. *See, e.g.*, Brown Figure 1. Appellants respectfully submit that nowhere does Brown disclose, or even suggest, that the signals are *automatically* generated by the utility command center computer 24. Therefore, Brown fails to disclose, or even suggest, "*automatically* generating at least one informational message at a central server *responsive* to one or more of resource-consumption by, resource-production by, operating characteristics of, and operational state of at least one device of the plurality of remote devices," as recited in claim 1. (emphasis added). In addition, Woolard fails to make up this deficiency. Indeed, the Office Action does not even allege Woolard remedies such deficiency.

Also, in the Response to Argument section of the Examiner's answer, the Examiner asserts that informational messages/signals of Brown are generated automatically, by the utility command central computer 24, in response to the sensed/developed condition in the grid caused by energy consumed by the certain appliances/remote devices situated at the utility customers' premises. Appellants respectfully disagree. Rather, Brown discloses that the utility company paging messages are only sent to those facilities who have agreed to participate in a reduction program, usually in exchange for a reduced cost for electric power, natural gas or other commodity supplied. *See, e.g.*, column 4, lines 19-23. Nowhere does Brown disclose, or even suggest, that the messages generated by the utility company is responsive to "one or more of resource-consumption by, resource-production by, operating characteristics of, and operational state of at least one device of the plurality of remote devices" of the participating customers.

(ii) In the Response to Argument section of the Examiner's Answer, the Examiner withdrew the "obvious" statement regarding "automatic feature" and changed the scope of the rejection. Thus, Appellants respectfully submit that the obviousness rejection in view of Brown and Woolard is deficient.

(iii) In addition, Appellants respectfully submit that Brown teaches away from "**automatically** generating at least one informational message at a central server **responsive** to one or more of resource-consumption by, resource-production by, operating characteristics of, and operational state of at least one device of the plurality of remote devices," as recited in claim 1. (emphasis added). In particular, Brown discloses that in Figures 10 and 11, two messages initiated by an electric power utility company may be sent to individual ones of the control units 26 and 28. These messages are used by the utility company to assist it in more equitably reducing power consumption under circumstances when the potential demand for power exceeds

the ability of the utility company to generate power. *See, e.g.,* column 21, lines 25-31. (emphasis added). Additionally, Brown discloses that in the past, the utility company has turned off the power completely for selected user groups or load groups when load reduction was required. *See, e.g.,* column 21, lines 31-34. Accordingly, Brown fails to disclose, or even suggest, “*automatically generating at least one informational message at a central server responsive to one or more of resource-consumption by, resource-production by, operating characteristics of, and operational state of at least one device of the plurality of remote devices,*” as recited in claim 1. (emphasis added). Accordingly, Appellants respectfully submit that independent claim 1 is patentable over Brown and Woolard for at least the reasons set forth above.

IV. Conclusion

Because the cited references fail to disclose or render obvious all features set forth in the pending claims, Appellants submit that the pending claims are allowable over the cited reference. Accordingly, Appellants respectfully request that the Board reverse the rejections set forth in the Action, and allow all of the pending claims. Authorization is hereby granted to charge or credit the undersigned's Deposit Account No. 50-0206 for any fees or overpayments related to the entry of this Appeal.

Date: June 24, 2009

By:

Respectfully submitted,

Dalei Dong
Registration No. 60,363
For

Brian M. Buroker
Registration No. 39,125

HUNTON & WILLIAMS
1900 K. St., NW, Suite 1200
Washington, D.C. 20006-1109
Tel: (202) 955-1500
Fax: (202) 778-2201